REMARKS

Claims 17-32 are pending in the instant application. Claims 17-32 have been subjected to the following Restriction Requirement:

Group I, claims 17-25, drawn to a method for diagnosis comprising the step of preparing recombinant proteins of βig-h3 or βig-h3 fas-1 domains; and

Group II, claims 26-32, drawn to a diagnostic kit comprising βig-h3 protein or recombinant proteins of the βig-h3 fas-1 domain.

The Examiner suggests that the inventions listed as Groups I-II do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical feature. In particular, the Examiner suggests that the technical feature linking Groups I-II is a recombinant βig-h3 protein or βig-h3 fas-1 domain protein in combination with a ligand for the recombinant protein. However, the Examiner suggests that this technical feature linking the inventions of Groups I-II does not constitute a special technical feature as defined by PCT Rule 13.2, as it does not define a contribution over Purchio et al. (WO 96/01102).

Applicants respectfully traverse this Restriction Requirement.

At the outset, Applicants respectfully disagree with the Examiner's characterization of the special technical feature linking Groups I and II.

In accordance with MPEP 1850, unity of invention has to be considered in relation to the independent claims. Independent claims of Groups I and II are drawn to methods and kits, respectively for diagnosing renal diseases, hepatic diseases, rheumatoid arthritis or cardiovascular diseases using recombinant proteins of βig-h3 or βig-h3 fas-1 domains, their fragments or derivatives, as standard proteins. Use of these proteins to diagnose these diseases is clearly a single general inventive concept which links the claims of Groups I and II and defines a contribution over the prior art.

Accordingly, reconsideration of this Restriction Requirement and rejoinder of Groups I and II is respectfully requested.

In an earnest effort to advance the prosecution of this case, however, Applicants elect to prosecute Group I, claims 17-25, with traverse.

This Group has been further subjected to the following species election requirements:

a. Disease to be diagnosed, namely renal disease (specific disease to be specified), hepatic disease (specific disease to be specified), rheumatoid arthritis and cardiovascular disease (specific disease to be specified);

b. recombinant protein of βig-h3, namely SEQ ID NO: 3, 5, 7, 8, 9 and 10;

c. ligand, namely RNA, DNA, lipids, proteins, organic compounds, inorganic compounds and antibodies; and

d. type of assay method, namely immunoblotting, immunoprecipitation, ELISA, RIA, protein chip, rapid assay, and microarray.

Applicants respectfully traverse this species election requirement.

In accordance with MPEP § 808.01, an election of species should be made when a generic claim recites such a multiplicity of species that an unduly extensive and burdensome search is required. In the instant case, however, the generic claim is not drawn to such a large multiplicity that search of all species would be unduly extensive or burdensome. Further, a proper search of the generic claim, should reveal any art relating to the listed diseases, proteins, ligands and assay methods the Examiner suggests to be distinct species. Accordingly,

reconsideration of this species election requirement is respectfully requested.

However, in an earnest effort to be completely responsive, Applicants elect the following species:

a. diabetic renal disease;

b. SEQ ID NO:3;

c. antibody; and

d. ELISA,

with traverse.

In accordance with MPEP § 809.01 and 37 C.F.R. § 1.146, it is respectfully pointed out that the claims should only be restricted to these species if no generic claim is held allowable.

Applicants believe that the foregoing comprises a full and complete response to the Office Action of record.

Respectfully submitted,

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